IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Revision No. 741 of 1992

Date of Decision :- March 22, 2007

Baljit Singh ....PETITIONER

VERSUS

State of Punjab ....RESPONDENT

CORAM: HON'BLE MR. JUSTICE MEHTAB S.GILL

Present:- Mr. Kanwaljit Singh, Advocate
for the petitioner.

Mr. J.S.Dhillon, DAG Punjab.

MEHTAB S.GILL, J.

This is a revision against the judgment dated 28.10.1992 of the Additional Sessions Judge, Patiala, affirming the judgment dated 5.4.1990 of the Judicial Magistrate 1st Class, Fatehgarh Sahib, whereby he convicted Baljit Singh son of Skandar Singh under Sections 304-A/279 IPC and sentenced him to undergo R.I. for one year and to pay a fine of Rs.2,000/-, in default to further undergo R.I. for one month under Section

304-A IPC. Petitioner was also sentenced to pay a fine of Rs.300/- under Section 279 IPC, in default to undergo R.I. for 7 days.

The case of the prosecution is that Gurcharan Singh son of Bal Singh lodged an FIR Ex.PA/2 that his elder daughter Rajinder Kaur (aged 25 years) was married about 7 years earlier in Village Talwara with one Sadha Singh son of Natha Singh. She gave birth to a male child on 31.12.1987. On 1.1.1988 at about 1.30 p.m., he (complainant) along with Avinder Singh were going to Dhillon Nursing Home. When they reached in front of the shop of Sarwjit Singh, they saw Sadha Singh son-in-law of the complainant, coming on a bicycle. A bus bearing registration No. PBK-1125, which was being driven by the petitioner in a fast, rash and negligent manner, struck the bicycle of the son-in-law of the complainant. As a result of which, Sadha Singh fell down and suffered head injuries. He came to know about the driver of the bus at a later stage as being appellant Baljit Singh.

The prosecution to prove its case brought into the witness box Dr. Hardev Singh as PW1, Prem Chand as PW2, Gurcharan Singh as PW3, Avninder Singh as PW4, Karam Chand Mechanic as PW5, Baldev Singh Investigating Officer as PW6 and Pritam Singh Narang as PW7.

Learned counsel for the petitioner has argued, that there is delay in the lodging of the FIR. The accident did not take place due to the rash and negligent driving of bus, by the petitioner, but took place on account of Sadha Singh deceased, being under the influence of liquor. He was not in his senses and came fast from the side of Dhillon Nursing Home and struck the bus himself. Petitioner though driving the bus, but was

going on a very slow speed, as there was a railway crossing. There are material discrepancies in the testimony of the prosecution witnesses. Surinder Singh, who saw the occurrence, was not produced.

Learned counsel for the State has argued, that the delay, if any, in the lodging of the FIR, is only administrative and procedural, which has been adequately explained. Testimony of Gurcharan Singh complainant PW3 and Avninder Singh PW4 cannot be discarded merely on the ground that they are relations. Relations would be present naturally at the Nursing home, where the daughter of the complainant had given birth to a child.

I have heard the learned counsel for the parties, perused the impugned judgments and the record with their assistance.

Accident took place at 10.00 a.m. The prosecution witnesses i.e. Dr. Hardev Singh PW1 along with Gurcharan Singh complainant PW3 and Avninder Singh PW4 have supported the case of the prosecution and have corroborated each other inter-se. FIR Ex.PA/2 was registered at 1.30 p.m. on the same day. There is no delay in the lodging of the FIR.

I do not find any infirmity in the judgment of the learned Additional Sessions Judge.

Occurrence is of the year 1988 and revision is of the year 1992. The sword of conviction is hanging over the head of the petitioner for the last 19 years. This itself is a punishment. Sentence of the petitioner is modified to that already undergone. Conviction shall stand, as already awarded by the learned trial Court and the appellate Court.

With the above modification in sentence, revision petition is dismissed.

March 22, 2007 **(MEHTAB S.GILL)**
S.K.Arora **JUDGE**

WHETHER TO BE REFERRED TO REPORTER? YES/NO